

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

EUGENE AND DAYMEL SHKLAR
FOUNDATION,

Plaintiff,

V.

IAN SIMMONS,

Defendant.

C.A. No. 04-CV-11529-JLT

**STATUS REPORT OF THE PARTIES
AND JOINT MOTION TO STAY DISCOVERY PENDING MEDIATION**

Pursuant to the Court's October 12, 2005 electronic notice to the parties, Plaintiff Eugene and Daymel Shklar Foundation (the "Foundation") and defendant Ian Simmons ("Simmons"), hereby jointly submit this status report and move to stay all discovery in the above-captioned matter pending the completion of mediation scheduled for November 18, 2005. As set forth in greater detail below, the parties have been engaged in settlement discussions and agreed in good faith to mediate this case. Although document discovery is complete, both parties have noticed, but not taken, several depositions. In order to limit costs to the parties and reduce the potential burden on deponents, the parties have agreed to postpone these depositions so that they may focus on mediation efforts. In the event that the mediation is not successful, the parties will confer and propose a schedule to the Court for completing discovery.

In support of this motion, the Foundation and Simmons jointly state the following:

1. The deadline for completion of discovery in this matter is October 27, 2005.
2. On July 7, 2005, the parties submitted a joint motion to extend discovery deadlines in which they represented that they had begun discussing settlement of the case and

were exploring whether mediation would be beneficial to settlement efforts. Subsequent to the filing of the July 7, 2005 joint motion, the parties continued their settlement discussions and did agree to mediate this matter.

3. The parties are scheduled to mediate the case with Brad Honoroff of The Mediation Group in Brookline, Massachusetts on November 18, 2005. Both parties have executed Mr. Honoroff's standard form mediation agreement.

4. The parties agree that their efforts are best focused towards preparing for the mediation, and that it is not in the interests of the parties or justice to incur the expense of completing depositions and imposing upon witnesses unless the mediation is unsuccessful.

5. The parties propose to file a joint status report with the Court within ten (10) days of the completion of the mediation in which they will indicate whether or not the mediation was successful. If the mediation does not resolve this matter, the parties will confer and submit a proposed schedule for completion of discovery as part of the status report.

WHEREFORE, the Foundation and Simmons jointly request that the Court stay discovery pending the parties' November 18, 2005 mediation.

EUGENE AND DAYMEL SHKLAR
FOUNDATION,

By its attorneys,

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Dated: October 12, 2005

IAN SIMMONS,

By his attorneys,

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